

S.B.CIVIL WRIT PETITION NO.2208/2003

Sajjan Singh Mehta
V.
State of Rajasthan & Ors.

Date of Order :: 7th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Hemant Dutt, for the petitioner.
Mr. B.L.Tiwari, Deputy Government Advocate.

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The petitioner while holding the post of Head Master, Government Secondary School, Sangaria, Chittorgarh stood retired from service on 31.12.1999 on acquiring the age of superannuation. Just four days earlier to the date of retirement the petitioner was placed under suspension by the competent authority under an order dated 27.12.1999 contemplating disciplinary proceedings. No disciplinary proceedings have yet been initiated against the petitioner, however, the respondents have not released the pensionary benefits to the petitioner on the count that he has been convicted for an offence under Section 411 IPC and the matter with regard to grant of pension is pending before His Excellency the Governor of Rajasthan. The Governor of Rajasthan under Rule 7 of the Rajasthan Pension Rules, 1996 (hereinafter referred to as "the Rules of 1996") is empowered to withhold or withdraw pension if a government servant in any department on judicial proceedings is found guilty of grave misconduct or negligence during the period of his service including the service rendered

upon re-employment after retirement. Under Rule 7 of the Rules of 1996 to withhold pension the essential ingredient is that the pensioner must have been found guilty of grave misconduct or negligence during the period of his service.

In the instant matter, as stated above, no disciplinary proceedings have yet been initiated by the respondents against the petitioner and now in light of the provisions of Rule 7(2)(B) of the Rules of 1996 no departmental proceedings can be instituted against the petitioner as the incident against that the respondents want to proceed for departmental action took place for a period of more than four years.

Accordingly, precisely the question now remains is as to whether the Governor can withdraw or withhold the pension without founding the pensioner guilty for grave misconduct by holding a departmental inquiry or by some judicial proceeding.

In the instant matter though the petitioner has been convicted for an offence under Section 411 IPC but that was not pertaining to his services or the duties related to service. There is no finding of any misconduct on part of the petitioner either in departmental or judicial proceeding. As such, the petitioner cannot be denied pension in accordance with

Rule 7 of the Rules of 1996. The respondents, therefore, erroneously detained pension of the petitioner.

The petition for writ for the reasons mentioned deserves acceptance. The same is accordingly allowed. The respondents are directed to grant all pensionary including commutation and all other post retiral benefits to the petitioner forthwith. The petitioner shall be entitled for interest on the arrears of pension @ 6.5% per annum.

(GOVIND MATHUR),J.

kkm/ps.